

Message Text

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ACTION NEA-10

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TO SECSTATE WASHDC 9217

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EO 11652: NA

TAGS: PFOR, IN, CGEN

SUBJ: JHIRAD EXTRADITION CASE

REF: (A) STATE 253656, (B) STATE 254804

1. UNDERSECRETARY MEA CONSULAR DIVISION (NAMBISAN)
CALLED IN CONSOFF OCTOBER 26 AND HANDED OVER NOTE
REQUESTING DEPARTMENT OF STATE CERTIFICATION OF
DOCUMENTS IN JHIRAD CASE AS PRELIMINARY TO INITIATION
EXTRADITION PROCEDURES. SALUTATION AND CLOSE ASIDE,
NOTE READS AS FOLLOWS:

"MR. JHIRAD WAS ARRESTED BY THE AUTHORITIES CONCERNED
IN THE UNITED STATES OF AMERICA IN AUGUST 1972, AND
IMMEDIATELY THEREAFTER EXTRADITION PROCEEDINGS WERE
INITIATED IN THE UNITED STATES DISTRICT COURT, SOUTHERN
DISTRICT OF NEW YORK. IN APRIL 1973 JHIRAD WAS FOUND
EXTRADITABLE, BUT THE MAGISTRATE ORDERED CONTINUANCE
OF JHIRAD'S BAIL TO ENABLE HIM TO FILE A WRIT OF
HABEAS CORPUS. THIS PETITION FOR WRIT OF HABEAS
CORPUS WAS LATER DENIED. THEREAFTER, JHIRAD'S
FILED AN APPLICATION FOR THE STAY OF PROCEEDINGS BEFORE
THE COURT OF APPEALS. HIS APPLICATION WAS HEARD BY
THE COURT OF APPEALS WHICH REMANDED THE CASE TO THE
DISTRICT COURT TO DECIDE ABOUT THE QUESTION OF HIS
'INTENT' OF ESCAPING PROSECUTION FOR THE CRIME. THE
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DISTRICT COURT IN ITS VERDICT RECOMMENDED EXTRADITION

OF JHIRAD, WHO THEREON FILED A WRIT OF HABEAS CORPUS WHICH ALSO WAS DENIED. SUBSEQUENTLY, JHIRAD FILED AN APPEAL IN THE COURT OF APPEALS AND REQUESTED FOR CONTINUATION OF THE BAIL. ON APRIL 12, 1976 THE COURT OF APPEALS, HOWEVER, DENIED JHIRAD'S APPLICATION FOR HABEAS CORPUS RELIEF AND AFFIRMED THE ORDERS OF THE DISRTICT COURT.

"JHIRAD THEREON APPLIED FOR REHEARING AND FOR A STAY OF THE ORDERS OF THE COURT OF APPEALS, PENDING A PETITION TO THE UNITED STATES SUPREME COURT FOR A WRIT OF CERTIORARI. THE REQUEST FOR REHEARING WAS DENIED BY THE COURT OF APPALS FOR THE SECOND CIRCUIT, BUT THE COURT GRANTED FURTHER STAY TO JHIRAD FOR FILING A WRIT OF CERTIORARI IN THE UNITED STATES SUPREME COURT. ACCORDINGLY, JHIRAD FILED A PETITION FOR WRIT OF CERTIORARI IN THE UNITED STATES SUPREME COURT ON JUNE 24, 1976 REQUESTING THE SUPREME COURT TO REVIEW THE JUDGEMENT AND OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT.

" THE UNITED STATES SUPREME COURT HAS NOW DENIED JHIRAD'S PETITION ON OCTOBER 4, 1976 AND HAS UPHELD THE DECISION OF THE COURT OF APPEALS AFFIRMING THE DECISION OF THE UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK HOLDING THAT SUFFICIENT EVIDENCE HAD BEEN PRODUCED TO SUPPORT THE REQUEST FOR EXTRADITION. THE SECRETARY OF STATE OF THE UNITED STATES OF AMERICA HAS NOW TO CERTIFY THE RECORDS, BEFORE JHIRAD COULD BE EXTRADITED.

"THE MINISTRY OF EXTERNAL AFFAIRS WOULD, THEREFORE, BE GRATEFUL IF ALL FORMALITIES CONCERNING CERTIFICATIONN COULD BE COMPLETED FOR AN EARLY EXTRADITION OF JHIRAD PARTICULARLY IN VIEW OF THE UNITED STATES SUPREME COOOURT'S FINAL DECISION AND WELL-KNOWN AND LONG-STANDING CRIMINAL CHARGES UPHELD SUCCESSIVELY BY VARIOUS COURTS IN THE UNITED STATES OF AMERICA."

2. SPECIFICS OF CASE WERE NOT DISCUSSED. HOWEVER, NAMBISAN APPEARED SURPRISED AT CASUAL MENTION THAT JHIRAD WAS NATURALIZED ISRAELI AND SAID HE HAD NOT BEEN AWARE THIS FACT. WHILE WE DO NOT BELIEVE FACT OF LIMITED OFFICIAL USE

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NATURALIZATION WILL AFFECT EXTRADITION PROCESS SINCE ARTICLE I OF 1931 TREATY DEALS WITH "PERSONS" WITHOUT REFERENCE TO NATIONAL STATUS, JHIRAD IS PRESUMABLY NO LONGER INDIAN NATIONAL UNDER ARTICLE 9 (1) OF CITIZENSHIP ACT OF 1955, WHICH PROVIDES FOR AUTOMATIC LOSS INDIAN CITIZENSHIP ON VOLUNTARY ACQUISITION NATIONALITY OF ANOTHER STATE.
SCHNEIDER

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